

Implementation Contractor to support the Agriculture Energy Audit Program
Request for Proposal (RFP) 5064

NYSERDA reserves the right to extend and/or add funding to the Solicitation should other program funding sources become available.

Proposals Due: June 29, 2022 by 3:00 p.m. Eastern Time*

The New York State Energy Research and Development Authority (NYSERDA) is requesting proposals from contractors to implement the Agriculture Energy Audit Program (AEAP) by providing outreach, enrollment and installation support to NYSERDA and eligible customers. This service includes only the energy audit portion of the AEAP. The goal of the AEAP is to assist eligible farms and growers in becoming more energy efficient and, therefore, reducing operating expenses to maintain profitability and long-term farm viability. More information on the AEAP can be found here:

<https://www.nyserderda.ny.gov/All-Programs/Agriculture-Energy-Audit>.

Proposal Submission: Online submission is preferable. Proposers may submit Word, Excel, or PDF files (file formats include csv, doc, docx, gif, jpeg, jpg, pdf, png, ppt, pptx, pps, ppsx, tif, txt, xls, xlsx, and zip). Individual files should be 100MB or less in file size. Proposal PDFs should be searchable and should be created by direct conversion from MS Word, or other conversion utility. Files should not be scanned. For ease of identification, all electronic files must be named using the proposer's entity name in the title of the document. NYSERDA will also accept proposals by mail or hand-delivery if online submission is not possible. For detailed instructions on how to submit a proposal (online or paper submission), click the link "[Application Instructions and Portal Training Guide](#) [PDF]" located in the "Current Opportunities" section of NYSERDA's website (<https://www.nyserderda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>).

No communication intended to influence this procurement is permitted except by contacting Jessica Zweig at (518) 862-1090 ext. 3346, Kathleen O'Connor at (518) 862-1090 ext. 3422 or by e-mail agriculture@nyserderda.ny.gov. If you have contractual questions concerning this solicitation, contact Nancy Marucci at (518) 862-1090, ext. 3335 or NancySolicitations@nyserderda.ny.gov. Contacting anyone other than the Designated Contacts (either directly by the proposer or indirectly through a lobbyist or other person acting on the proposer's behalf) in an attempt to influence the procurement: (1) may result in a proposer being deemed a non-responsible offerer, and (2) may result in the proposer not being awarded a contract.

*** All proposals must be received by 3 p.m. Eastern Time on the date noted above. Late, faxed, or emailed proposals will not be accepted.** Incomplete proposals may be subject to disqualification. It is the proposer's responsibility to ensure that all pages have been included in the proposal. Please note for online submission, there are required questions that you will have to answer in addition to uploading attachments and you should allot at least 60 minutes to enter/submit proposals. The online proposal system closes promptly at 3 p.m. Eastern Time, files in process or attempted edits or submission after 3 p.m. Eastern Time on the date above, will not be accepted. If changes are made to this solicitation, notification will be posted on the "Current Opportunities" section of NYSERDA's website (<https://www.nyserderda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>).

I. Introduction

New York State is a leader in the production of several agriculture commodities and contributes \$5.4 billion annually to the state's economy. The agriculture sector has approximately 6.8 million acres of farmland and 35,000 farms, roughly one-quarter of the State's land area. Energy efficiency projects represent a cost saving opportunity and farm energy audits assist with identifying what improvements could lower utility expenses.

The Agriculture Energy Audit Program (AEAP) offers free technical assistance to help farms identify measures to save energy and money on utility bills and identify opportunities to decarbonize. There are two level of audits that a farm can received: comprehensive and targeted. NYSERDA assigns Flexible Technical Assistance Program Consultants to perform the energy audit for eligible farms. All audit reports include site-specific recommendations for energy efficiency measures. In addition, the AEAP can assist farms in identifying implementation incentives through their utility, USDA, or other programs. Eligible farms include, but are not limited to, dairies, orchards, greenhouses, vegetables, vineyards, grain, and poultry/egg.

The services requested under this solicitation are to implement the audit portion of the AEAP by providing outreach, enrollment and installation support to NYSERDA and eligible customers.

In addition, under AEAP, greenhouse facilities can receive a free benchmarking report through the New York State Greenhouse database and benchmarking tool. The report describes energy-use intensity and benchmarks the facility against an anonymous aggregate of peer facilities. The greenhouse benchmarking portion of the AEAP is serviced by a separate contractor.

II. Program Requirements

Funding

NYSERDA reserves the right to adjust funding based on Program success and participation, funding source approval requirements, availability of new funds, or other factors addressing the Program(s). Funding may be added proportionately through additional contract extensions and amendments.

Contracting

The AEAP is scheduled to collect applications through December 31, 2025, or until funds are fully exhausted. Implementation Contractor services will be necessary until all received applications are closed. The initial contract will begin October 2022 and be for a three-year period, with two, two-year optional contract extensions.

Services Requested

NYSERDA is seeking one program implementation contractor for the audit portion of the AEAP by providing outreach, enrollment, and installation support for NYSERDA and eligible customers. It is the goal of the program to obtain approximately 150 applications annually. The services requested of the selected contractor would include, but are not limited to:

Contract Management

The selected contractor will be responsible for management of the AEAP with guidance and continuous communication with the NYSERDA project manager and AEAP team and the proposer's project manager lead. Contract management includes reporting to NYSERDA for continuous and consistent AEAP program management on a pre-determined frequency. Weekly, monthly, quarterly and annual reports on AEAP program activities, status, issues, and budget status will be required.

Outreach

To market and enroll customers in the AEAP, the selected contractor will perform, but not be limited to, the following outreach tasks: identify effective mediums for outreach, determine which agriculture sector stakeholders to leverage, determine entities within the agriculture community which can facilitate direct outreach, identify and participate in trade events, and develop and implement methods to inform producers about energy efficiency and the AEAP. Farms that are located within areas designated as meeting the draft criteria of a Disadvantaged Community ([link](#)) MUST be prioritized for identification and targeted outreach. The selected contractor will work with NYSERDA to develop a consistent message when communicating with parties outlined herein.

Program Customer Enrollment

The selected contractor will assist potential farm and on-farm customers, especially those located within areas designated as meeting the draft criteria of a Disadvantage Community, in participating in the AEAP. The selected contractor will provide assistance in accessing the AEAP including confirming program eligibility, completing program applications, assisting the farm with deciding what level of audit is necessary for their farm, and providing easy access to program guidance, through the use of mechanisms such as a toll-free number and/or e-mail address.

Audit Review

The selected contractor will review draft audit reports for technical accuracy and provide feedback to the FlexTech Consultants that are conducting the audits. Each audit will be approved by the selected contractor and NYSERDA. Periodic assessment of the audit reports will occur in conjunction with the NYSERDA project manager to confirm audits provided meet a baseline standard and if any improvements can be made to make it easier for farms to understand the information contained in the audit.

Customer Assistance

Once the audit report is delivered to the farm, the selected contractor will follow-up with the farm to review the recommended measures and answer any questions. During the follow-up call, farms wishing to implement measures recommended in their audit report are to be provided information about applicable incentive programs. The selected contractor will identify and maintain a listing of all incentive programs and corresponding contacts available to farms. These programs can be from the utilities, USDA or other sources. Other customer assistance necessary to move towards measure implementation is expected.

Program Management and Tracking

The selected contractor will track all AEAP audit project information and program metrics to meet reporting requirements and any information requested by NYSERDA. Typical information includes outreach results, application tracking, incentive programs accessed, and energy savings recommended per audit report delivered and for the audit portion of the AEAP. In addition, other support and assistance for the AEAP and the NYS Agriculture Sector may be requested by NYSERDA during the contract period.

The selected contractor will not be responsible for performing energy audits. Energy audits are performed by NYSERDA's FlexTech Consultants and paid directly by NYSERDA. The contractor selected under this RFP will not be able to perform farm energy audits under the AEAP.

Proposers must demonstrate past experience with the New York State agriculture sector. In addition, the proposers should demonstrate the ability to organize and track the interactions and data requirements with each farm. Proposers should be able to: easily access the agriculture community, especially those located within the areas designated as meeting the draft criteria of a Disadvantaged Community, to market the AEAP; provide clear communications in regard to AEAP requirements and project eligibility; assess the validity of energy audit recommendations; assist farms in identifying implementation incentives; and accurately maintain records to report AEAP results.

III. Proposal Requirements

Proposals should concisely present the Proposal Requirements, while also making sure the Evaluation Criteria listed in Section IV has been adequately address. The proposal should not exceed 10 pages. Please note attachments and supporting documents are not counted in the 10-page limitation (e.g., budget supporting information, resumes, letters of commitment, etc.). **Important Note: Please combine your proposal and all attachments and supporting documentation into one file and upload as one document file.**

If you believe proprietary information must be submitted to provide an adequate proposal, you must comply with the Section V instructions for submitting proprietary material. Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal.

The proposal must be in the following format:

Executive Summary

In this section, proposers must summarize and exhibit a thorough understanding of this RFP, the general approach to supporting AEAP, and the requirement to prioritize farms located within areas designated as meeting the draft criteria of a Disadvantage Community. Proposers must summarize why NYSERDA should select the proposer's firm including any acknowledgements or accolades recently received.

Proposals that include teaming arrangements must designate one party as the prime contractor who will be responsible for the administration of the contract. Proposers should provide a brief identification of key information about their organization, and all other organizations that are part of the proposer's team.

If any firm is not based in New York State, discuss the mechanism which will guarantee its ability to deliver services in New York State in a cost-effective manner.

Statement of Work

The AEAP Program Implementor Statement of Work must include a detailed description of how the proposer will deliver the AEAP as outlined in **II. Program Requirements, Services Requested**. Include deliverables for each task. In addition, the Statement of Work may also include a detailed description of how the proposer will deliver services using its own creative approach.

Proposer's Past Experience

A description of the proposer's experience relative to the tasks in Statement of Work should be provided here. Proposers should show experience on how they interacted, served, and/or provided assistance to New York State farms and on-farm producers. Proposers should describe past experience in identifying and providing targeted outreach to farms located within areas designated as meeting the draft criteria of a Disadvantage Community ([link](#)). Proposers with program administration experience should include a description of a program involving the agriculture sector. The description should specify the level of involvement of the proposing firm. Include any relevant contact names and phone numbers for this program and their respective involvement on the program.

Attachments to this section may include summary of the sample projects; examples of marketing plans; program materials; outreach materials; management plans; and data tracking or reporting for similar programs.

Staffing Plan and Experience of Key Personnel

In this section, proposers must provide documented ability to perform the requested services.

Provide a description of the responsibilities of each key person in the execution of the proposed work plan, including subcontractors. Services should be accomplished with a weighted combination of staff (e.g., principal, senior, junior, technical, administrative, and clerical staff.) Include a description of the experience and qualifications of each of the key personnel.

Proposals that include teaming arrangements must designate one party as the prime contractor who will be responsible for the administration of the contract. The prime contractor will have one individual who will be the main contact. This main contact should be experienced in client relations and program development. Again, the description of the main contact's expertise should highlight these abilities.

It is preferred that individuals have strong oral and written communication and presentation skills, be experienced in client relations and project development, and possess a clear understanding and familiarity with the agriculture sector. Each individual must fully understand and be able to explain to eligible customers the AEAP.

All individuals involved in the proposal must be free of financial interest in any product or service which may be, or appear to be, in conflict with NYSERDA's services to its customers. If any affiliations exist, please describe them and verify that they do not conflict with the objectivity provided to NYSERDA and its customers.

Attachments to this section may include resumes of key personnel highlighting relevant experience (individual resumes shall not exceed one page); an organization chart showing the relationship among all personnel and subcontractors; and letters of commitment from any proposed subcontractors identified as part of a team arrangement including a description of their proposed participation.

Budget

The AEAP is expected to operate through 2025, anticipating 150 applications per year. Proposers must include a budget that details estimated hours, staff level, direct and indirect costs, other expenses, and subcontractors, if applicable. Please provide a budget table that includes the anticipated number of hours

each of the key people will spend on each task and show the estimated total hours and dollars necessary per task. A sample budget table is shown below.

Example Budget Table

Tasks (Add rows as needed)	2022 (Three months)		2023		2024		2025 (Nine months)		Totals	
	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$
Task: <i>Task Title</i>										
Key personnel title										
Key personnel title										
Task: <i>Task Title</i>										
Key personnel title										
Expenses and Subcontractors:										
Totals:										

The overall costs for services must be within the budgetary constraints while allowing the programs to meet their goals.

Attachments to this section *must* include Attachment A - Rate Schedule with billing rates for all applicable positions, including all positions listed in the staffing plan as well as estimated cost for travel, material and equipment for the proposer and all proposed subcontractors.

Include supporting documentation to support indirect cost (overhead) rate(s) included in the proposal as follows:

- Describe the basis for the rates proposed (i.e., based on prior period actual results; based on projections; based on federal government or other independently approved rates).
- If rate(s) is based on estimated costs or prior period actual results, include calculations to support proposed rate(s). Calculations should provide enough information for NYSERDA to evaluate and confirm that the rate(s) is consistent with generally accepted accounting principles for indirect costs.
- If rate(s) is approved by an independent organization, such as the federal government, provide a copy of such approval.

NYSERDA reserves the right to audit any indirect rate presented in the proposal and to make adjustment for such difference. Requests for financial statements or other needed financial information may be made if deemed necessary.

Lastly, NYSERDA reserves the right to direct limitations or expansions of these proposed services within the bounds of the proposal based on cost-effectiveness and other related considerations.

IV. Proposal Evaluation

Proposals that meet solicitation requirements will be reviewed by a Scoring Committee using the Evaluation Criteria below listed in order of importance. At NYSERDA's discretion, proposers may be requested to interview with all or part of the Scoring Committee to address any potential questions or clarifications outlined in the proposals. Proposers will be notified if they are requested to attend an interview.

Evaluation Criteria

1) Qualifications and Experience of Proposer and Staffing Plan

a. Qualification and Experience:

- Does the proposer demonstrate their experience in engaging farms and clearly show how they served and/or provided assistance to NYS farms?
- Does the proposer highlight their experience in identifying and providing targeted outreach to farms located within areas designated as meeting the draft criteria of a Disadvantage Community?
- Is agriculture program administration experience clearly demonstrated? Are examples provided which demonstrate the ability to deliver, support and administer the program?

b. Staffing plan:

- Does the staffing plan identify the primary contact, key personnel and their corresponding responsibilities?
- Are the services covered by a combination of staff levels?
- Are resumes for all key personnel included as attachments? Do resumes of the key personnel reflect:
 - 1. the qualifications and ability to deliver the necessary program services?
 - 2. communication skills and experience with customer relations?
 - 3. relevant experience in the agriculture sector?
- Are Letters of Commitment provided from all entities involved in the proposal, if applicable?

2) Executive Summary and Statement of Work

a. Executive Summary:

- Does the Executive summary convey an understanding of the RFP, the services requested, and the requirement to prioritize farms located within areas designated as meeting the draft criteria of a Disadvantage Community?
- Is key information about the organization provided?

b. Statement of Work:

- Does the Statement of Work provide a detailed plan of how the proposer will accomplish the objectives; clearly identifying specific tasks, who will perform those tasks, anticipated deliverables and results?
- Is the Statement of Work realistic, concise, and address all the required tasks?
- Is there particular attention to the outreach and customer enrollment tasks? Does it specifically address how the proposer will identify and provide targeted outreach to farms located within areas designated as meeting the draft criteria of a Disadvantage Community?

- Are all elements of Section II Program Requirements – Services Requested addressed? This includes Contract Management, Outreach, Program Customer Enrollment, Audit Review, Customer Assistance, and Program Management and Tracking.

3) *Budget*

a. Cost:

- Does the level of effort and anticipated hours of key personnel align with the Statement of Work tasks?
- Is the overall cost reasonable and effective based on the Statement of Work? Is staff used appropriately to be cost effective and achieve success?
- Is the Rate Schedule attached along with all the necessary documentation in support of the cost rates included?

Programmatic Considerations

NYSERDA reserves the right to accept or reject proposals based on the following program policy factor(s):

- The degree to which pricing and hourly rates are in line with the rest of the market.

V. GENERAL CONDITIONS

Proprietary Information - Careful consideration should be given before confidential information is submitted to NYSERDA as part of your proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information, may be adequate for review purposes. The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSERDA that the proposer wishes to have treated as proprietary, and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to except it from disclosure, including a written statement of the reasons why the information should be excepted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 <https://www.nyserda.ny.gov/About/-/media/Files/About/Contact/NYSERDA-Regulations.ashx>. However, NYSERDA cannot guarantee the confidentiality of any information submitted.

Omnibus Procurement Act of 1992 - It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises, as bidders, subcontractors, and suppliers on its procurement Agreements.

Information on the availability of New York subcontractors and suppliers is available from:

Empire State Development
Division for Small Business

625 Broadway
Albany, NY 12207

A directory of certified minority- and women-owned business enterprises is available from:

Empire State Development
Minority and Women's Business Development Division
625 Broadway
Albany, NY 12207

State Finance Law sections 139-j and 139-k - NYSERDA is required to comply with State Finance Law sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at <https://online.ogs.ny.gov/legal/lobbyinglawfaq/default.aspx> . Proposers are required to answer questions during proposal submission, which will include making required certification under the State Finance Law and to disclose any Prior Findings of Non-Responsibility (this includes a disclosure statement regarding whether the proposer has been found non-responsible under section 139-j of the State Finance Law within the previous four years).

Tax Law Section 5-a - NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSERDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. See, ST-220-TD (available at http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf). Prior to contracting with NYSERDA, the prospective contractor must also certify to NYSERDA whether it has filed such certification with the Department.

The Department has created a second form that must be completed by a prospective contractor prior to contracting and filed with NYSERDA. See, ST-220-CA (available at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf). The Department has developed guidance for contractors which is available at <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf> .

Contract Award - NYSERDA anticipates making one award under this solicitation. NYSERDA anticipates a contract duration of three years with two, two-year options to renew, unless NYSERDA management determines a different structure is more efficient based upon proposals received. A contract may be awarded based on initial applications without discussion, or following limited discussion or negotiations pertaining to the Statement of Work. Each proposal should be submitted using the most favorable cost and technical terms. NYSERDA may request additional data or material to support applications. NYSERDA will use the Sample Agreement to contract successful proposals. NYSERDA may at its discretion elect to extend and/or add funds to any project funded through this solicitation. NYSERDA reserves the right to limit any negotiations to exceptions to standard terms and conditions in the Sample Agreement to those specifically identified in the checklist questions. Proposers should keep in mind that acceptance of all standard terms and conditions will generally result in a more expedited contracting process. NYSERDA expects to notify proposers in approximately six to eight weeks from the proposal due date whether your proposal has been selected to receive an award. Upon receipt of this notification, a proposer can request to schedule a debrief on the selection process and the strengths and weaknesses of its proposal by contacting Jessica Zweig at Jessica.Zweig@nyserdera.ny.gov. NYSERDA

may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NYSERDA agreement.

Accessibility Requirements - NYSERDA requires contractors producing content intended to be posted to the Web to adhere to New York State's Accessibility Policy. This includes, but is not limited to, deliverables such as: documents (PDF, Microsoft Word, Microsoft Excel, etc.), audio (.mp3, .wav, etc.), video (.mp4, .mpg, .avi, etc.), graphics (.jpg, .png, etc.), web pages (.html, .aspx, etc.), and other multimedia and streaming media content. For more information, see [NYSERDA's Accessibility Requirements](#).

Limitation - This solicitation does not commit NYSERDA to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSERDA reserves the right to accept or reject any or all proposals received, to negotiate with all qualified sources, or to cancel in part or in its entirety the solicitation when it is in NYSERDA's best interest. NYSERDA reserves the right to reject proposals based on the nature and number of any exceptions taken to the standard terms and conditions of the Sample Agreement. NYSERDA reserves the right to disqualify proposers based upon the results of a background check into publicly available information or the presence of a material possibility of any reputational or legal risk in making of the award.

Disclosure Requirement - The proposer shall disclose any indictment for any alleged felony, or any conviction for a felony within the past five years, under the laws of the United States or any state or territory of the United States and shall describe circumstances for each. When a proposer is an association, partnership, corporation, or other organization, this disclosure requirement includes the organization and its officers, partners, and directors or members of any similarly governing body. If an indictment or conviction should come to the attention of NYSERDA after the award of a contract, NYSERDA may exercise its stop-work right pending further investigation or terminate the agreement; the contractor may be subject to penalties for violation of any law which may apply in the particular circumstances. Proposers must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or the New York State Department of Labor.

Vendor Assurance of No Conflict of Interest or Detrimental Effect - The proposer shall disclose any existing or contemplated relationship with any other person or entity, including any known relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the proposer or former officers and employees of NYSERDA, in connection with proposer's rendering services as proposed. If a conflict does or might exist, please describe how your company would eliminate or prevent it. Indicate what procedures will be followed to detect, notify NYSERDA of, and resolve any such conflicts.

The proposer must disclose whether it, or any of its members, or, to the best of its knowledge, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

Public Officers Law – For any resulting awards, the Contractor and its subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State

employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the “Ethics Requirements”). Proposers are reminded of the following Public Officers Law provision: contractors, consultants, vendors, and subcontractors may hire former NYSERDA employees. However, as a rule and in accordance with New York Public Officers Law, former employees of NYSERDA may neither appear nor practice before NYSERDA, nor receive compensation for services rendered on a matter before NYSERDA, for a period of two years following their separation from NYSERDA service. In addition, former NYSERDA employees are subject to a “lifetime bar” from appearing before any state agency or authority or receiving compensation for services regarding any transaction in which they personally participated, or which was under their active consideration during their tenure with NYSERDA.

Any awardee will be required to certify that all its employees, as well as employees of any subcontractor, whose subcontract is valued at \$100,000 or more who are former employees of the State and who are assigned to perform services under the resulting contract, shall be assigned in accordance with all Ethics Requirements. During the term of any agreement, no person who is employed by the contractor or its subcontractors and who is disqualified from providing services under the contract pursuant to any Ethics Requirements may share in any net revenues of the contractor or its subcontractors derived from the contract. NYSERDA may request that contractors provide it with whatever information the State deems appropriate about each such person’s engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. NYSERDA shall have the right to withdraw or withhold approval of any subcontractor if utilizing such subcontractor for any work performed would be in conflict with any of the Ethics Requirements. NYSERDA shall have the right to terminate any contract at any time if any work performed is in conflict with any of the Ethics Requirements.

Due Diligence – NYSERDA, at its discretion, may conduct broad due diligence to validate any or all elements of an application and to assess applicants’ prospects of success, including gathering information to assess a proposal relative to any of the topics listed in evaluation criteria, whether or not such topic is explicitly addressed in a proposal. NYSERDA may conduct due diligence on some or all proposals based on NYSERDA’s current guidelines at the time of a review. NYSERDA staff may follow up with proposers to request additional information or clarification regarding applicant’s proposal, including questions regarding applicant’s business prospects and resources, whether or not those questions are specifically related to the elements of the proposal. Additionally, customized due diligence may be conducted by internal or external staff or contractors based on questions on any proposal raised by NYSERDA staff and/or the Scoring Committee. Due diligence may include (but is not limited to): interviews of independent references and background checks of team members; assessment of prior business experience of any team member associated with a proposal; research on intellectual property claims; customer and partner reference checks; market research on the applicants’ target market and any other related or possibly competitive technology or market area; research to validate any assumptions on current or future revenues, costs, capital needs, and financing prospects for proposers’ business, including similar (or unrelated) technologies, processes, or competitive solutions; or any other research that could reasonably inform the evaluation of a proposal, or the prospects for commercial success of the proposers’ business (whether directly related to, or unrelated to the specific elements in a proposal). Due diligence may include discussions with proposers’ former and current business partners, employees, investors, customers, and competitors. Due diligence may be conducted by NYSERDA personnel or contractors including members of the scoring committee, before, during, or after a scoring process, and prior to

finalization of a contract award, any information gleaned in diligence may be used to score or re-score a proposal or apply a program policy factor.

VI. Attachments:

Attachment A – Rate Schedule

Attachment B – Sample Agreement

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